

Regular Meeting Minutes

Board of County Commissioners Hyde County

September 8, 2009

Chairman Tom Davis called the Regular meeting of the Hyde County Board of Commissioners to order at 7:13 PM on Monday, September 8, 2009 in the Hyde County Government Center, Multi-Use Room, and the Ocracoke School Commons Area using electronic conferencing equipment. The following members were present on the mainland: Commissioners Anson Byrd, Tom Davis, Sharon Spencer, and Barry Swindell; County Manager Carl Classen; County Attorney Sid Hassell; Clerk to the Board Lois Stotesberry; and members of the public. The following members were present on Ocracoke: Commissioners Gene Ballance; Deputy Clerk Jamie Tunnell; and members of the public.

Following the pledge of allegiance and opening prayer by Commissioner Swindell the meeting was called to order.

Agenda:

Chairman Davis asked for changes to the September 8, 2009 meeting Agenda as presented by the Clerk. Commissioner Swindell moved to add Item II.A.2. – CDBG Closeout. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Consideration of Minutes:

Chairman Davis asked for approval of meeting minutes.

Commissioner Byrd moved to approve the August 3, 2009 meeting minutes as presented by the Clerk. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Public Hearing – Closeout CDBG – Hyde County CDC – Capacity Building:

Commissioner Swindell moved to open Public Hearing on Closeout CDBG – Hyde County CDC – Capacity Building. Mr. Ballance seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Mr. Larry Mooleanar reported that the purpose of the public hearing was to receive public comments prior to the closeout of the \$75,000 Community Development Block Grant for Capacity Building as administered by the North Carolina Department of Commerce. The Community Development Block Grant was awarded to assist the Hyde County Community Development Corporation (CDC) develop capacity in the area of affordable housing. The CDC hired Mike Adams who attended housing related training and assisted with housing related meetings of Hyde County citizens. It is anticipated that in the future the Hyde County CDC will submit a CDBG grant application for a housing related project.

Commissioner Swindell moved to close Public Hearing on Closeout CDBG – Hyde County CDC – Capacity Building. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Commissioner Byrd moved to authorize the Chairman, County Manager, and other County officials to sign and execute such documents as may be necessary to close out the \$75,000 Community Development Block Grant for Capacity Building as administered by the North Carolina Department of Commerce. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Public Comments:

Chairman Davis called for comments from the public.

Fred Westervelt, Ocracoke, requested a table of organization for Hyde County EMS on Ocracoke and asked how Ocracoke citizens could help.

David Warren, Ocracoke, stated that eleven days out of twenty-six Hyde County EMS was not compliant with its stated EMS plan to have two EMS crews on duty on the Island. Mr. Warren wants assurance from the Board of Commissioners that adequate EMS coverage will be provided on Ocracoke.

There being no further public comment, Chairman Davis continued the meeting.

Ordinances and Resolutions:

Project Ordinance – Engelhard Water Treatment Plant

On August 27, the County opened bids for two construction contracts – one for the Engelhard Reverse Osmosis Water Treatment Plant and one for the associated Discharge Line. The total of the bids exceeded the construction estimate but were well within the overall total of the existing Project Ordinance. As such, the amendments did not increase the Project Ordinance budget; rather, the proposed amendments alter the figures within the categories to accommodate the bid amounts.

Utilities Director Clint Berry feels there could be enough money in the Project to allow for a six inch water line to be installed along Swamp Road in Engelhard at the same time the discharge line is being constructed. If done by the same contractor at the time the discharge line is installed, the construction cost could be significantly less than if done under a separate contract. This line would create a loop in the water system from North Lake Road to US264, which would improve water quality and flow to existing customers, plus it would provide public water service to approximately 20 existing homes now served by private wells.

After discussion, Commissioner Swindell moved to approve Amendment #2 to the Engelhard Water Treatment Plant Project Ordinance #129; and, if the County Manager finds that the funds are available within the Project Ordinance to authorize design, permitting, and construction of a water line along Swamp Road, Engelhard, connecting existing County water lines along North Lake Road and US 264. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

CLERK'S NOTE: A copy of "Engelhard Water Treatment Plant Project Ordinance #129 – Amendment #2" is attached herewith as Exhibit A and incorporated herein by reference.

Project Ordinance – Swan Quarter NC STEP Grant

On July 1, 2008, Hyde County entered into a STEP Grant Contract with the North Carolina Rural Economic Development Center ("Rural Center"). On July 22, 2009, the County and the Rural Center amended the agreement to change the termination of the contract date from 2009 to September 30, 2010 and increased the amount of the award from \$5,850. to \$200,000.

The Project Ordinance amends amounts for each Swan Quarter STEP project approved by the Board on July 22.

After discussion, Commissioner Ballance moved to approve Amendment #1 to Project Ordinance – Swan Quarter NC STEP Grant 2008-219-60401. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

CLERK'S NOTE: A copy of "Project Ordinance – Swan Quarter NC STEP Grant #2008-219-60401 – Amendment #1" is attached herewith as Exhibit B and incorporated herein by reference.

Ordinance – An Ordinance Amending the Hyde County Code Relating to Pyrotechnics

County Manager Carl Classen presented a revised version of the Pyrotechnics Ordinance that was originally considered on August 3. At that meeting, the County Attorney noted several matters and the County Manager was directed to work with the County Attorney to suggest recommended changes, which are included in the revised version..

After review and discussion of recommended revisions, Commissioner Byrd moved to approve An Ordinance Amending the Hyde County Code Relating to Pyrotechnics. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

CLERK'S NOTE: A copy of "An Ordinance Amending the Hyde County Code Relating to Pyrotechnics" is attached herewith as Exhibit C and incorporated herein by reference.

Golf Cart Ordinance

Last winter, the County Commissioners submitted a request for a local bill allowing Hyde County to join other municipalities and counties permitting golf carts to operate on public streets without the golf carts meeting the criteria of a motor vehicle, as defined in State law.

Representative Tim Spear introduced a local bill as requested by the County Commissioners. So many other similar local bills were introduced that a statewide bill was written and eventually passed by the General Assembly. It was signed into law by Governor Perdue on August 7 as Session Law 2009-459. The law becomes effective October 1, 2009.

Mr. Classen reviewed provision of existing golf cart ordinances for possible inclusion in the Hyde County Golf Cart Ordinance.

Following discussion, Commissioner Davis moved to direct the County Manager to redraft the Hyde County Golf Cart Ordinance so it reflects just the requirements of State law and that the Board conduct a public hearing (though not required) in conjunction with the September 21 Commissioners meeting prior to second consideration of the Golf Cart Ordinance. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Appointments – Old Courthouse Oversight Committee

On January 5, 2009, the Hyde County Board of Commissioners approved the formation of an Old Courthouse Oversight Committee to be composed of three persons; one commissioner, one nominee from the Swan Quarter Service Group and one member at large who has a special knowledge of Hyde County and Courthouse history.

The Oversight Committee for the Historic Hyde County Courthouse will act on behalf of the Hyde County Board of Commissioners to assure that the renovation and use of the Courthouse are consistent with the County's goals and limitations. The Old Hyde County Courthouse Oversight Committee will give direction to the Courthouse Operating Entity and will report to the Hyde County Board of Commissioners on a regular basis.

After receiving recommendations, Commissioner Spencer moved to approve the appointment of George Williams, Swan Quarter Service Group, Tom Davis, Hyde County Board of Commissioners (Swan Quarter), and Roy Clarke, Hyde County Genealogical and Historical Society to the Old Courthouse Oversight Committee. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays - None; Absent or Not Voting – None.

Other Matters:

Budget Revisions and Transfers

County Manager Carl Classen reported to the Board that in accordance with the FY2009-10 Budget Ordinance several budget transfers were made administratively and he requested approval of the following:

A. Budget Amendment – Health Department – Personal Care – CAPS

The amendment reflects transfer of \$133,637 where the Health Department proposes to break out Personal Care expenses from the Community Alternatives Program (CAPS). The purpose is to provide for better accountability of the types of expenses.

Commissioner Swindell moved to approve transfer of \$133,637 for Health Department financial tracking purposes. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, Swindell, and Chairman Davis; Nays – None; Absent or Not Voting – None.

Following discussion and hearing no objection, Chairman Davis asked County Manager Carl Classen will work with the Health Director to research areal mosquito spraying and give report at the September 21 Board Meeting.

School Construction Bonds – QZAB; QSCB

On July 20, the Commissioners adopted a motion supporting the Board of Education applying for \$1.050 million allocation of federal stimulus, zero interest QSCB bonds. The money would be used for classroom space at Mattamuskeet School. The Commissioners also supported a Board of Education application for approximately \$690,000 in QZAB bond allocation to expand the gymnasium at Ocracoke School. The Board of Education also sought support for a further \$1.26 million classroom expansion at Mattamuskeet School but this portion of their request was laid over for further discussion. For each \$1 million of zero interest, twelve-year bond money, the annual debt service is approximately \$80,000. Mr. Greg Todd, School Superintendent said he feels the annual debt service for the \$1.050 million QSCB could come from existing school capital revenues. Debt service on the remaining bonds is estimated at \$160,000 annually for twelve years. One cent of the property tax yields just over \$100,000 annually.

In early August, Superintendent Todd learned that it is likely Hyde County would receive the \$690,000 QZAB allocation requested. Plus, the State announced \$78 million in QSCB allocation was not utilized so the State is re-advertising for applications. The applications were due August 31; prior to the next Board meeting. The School Superintendent learned that an application for the additional QSCB allocation could be submitted if the governing boards (Commissioners and Board of Education) state that the application will be on their agendas in a short period. After discussion with Chairman Davis, the County Manager signed such a statement so the application could be submitted in time. This application did not commit the Commissioners to supporting the extra \$1.26 million in QSCB allocation. Rather, it allowed a valid application to be submitted. If the allocation request is not approved by the Commissioners or the Board of Education, the application can be withdrawn.

The Board of Education met on Wednesday, September 9, to consider the same matter.

Commissioner Swindell moved to approve application for the \$1.26 million QSCB classroom expansion at Mattamuskeet School contingent upon approval by the Board of Education when they meet on September 9. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell. Nays – Davis; Absent or Not Voting – None.

North Carolina Agriculture Development Farmland Preservation Trust Grant - \$254,595

Debbie Cahoon, Director of the Hyde County Soil and Water Conservation District, submitted request for Hyde County to participate in the North Carolina Agricultural Development Farmland Preservation Trust Grant - \$254, 595.

The Hyde SWCD District submitted two grant applications this year to the North Carolina Agricultural Development & Farmland Preservation Trust Fund for conservation easements for Nancy Stotesberry Cook in the New Holland area and Curtis Holbert in the New Lake area.

In this year's grant cycle, the Hyde Soil & Water Conservation District was offered a grant award in the amount of \$254,595 to place Curtis Holbert's 250 acre farm in a perpetual agricultural conservation easement. This award will require the Hyde Soil & Water to act on behalf of Curtis Holbert in getting an appraisal, survey, environmental assessment, and preparing the necessary documents of the conservation easement which include legal fees and closing costs. The budgeted funds for the above mentioned items are \$6,200.00. The Hyde Soil & Water Conservation District after signing initial contract with the North Carolina Agriculture Development Farmland Preservation Trust Fund may request up to \$25,000.00 for work done prior to closing. Any remaining funds would go back to the Trust Fund to be dispersed back to The Hyde Soil & Water Conservation District on behalf of Curtis Holbert once easement is recorded and closing attorney opinion letter and final reporting of grant funds has been received.

The Hyde Soil & Water Conservation District will then disperse the remaining grant funds to Curtis Holbert in three installment payments over a period of three years.

The Hyde Soil & Water Conservation District will request that the language of the conservation easement prepared will include a restriction of the land to be used in wetland mitigation.

The Hyde Soil & Water Conservation District will also include in the easement that any future sales of the land will include a 5% of the sales price to be made payable to the Hyde Soil & Water Conservation District for monitoring said permanent easement.

Given the support of the Soil and Water Board, the County Manager recommends approval upon the following conditions:

- No more than \$6,200 shall be expended by the County for costs related to executing the grant and easement;
- Amend the easement to include the following:
 - None of the property may be used for wetlands or other environmental mitigation, except upon affirmative approval by the entire Board of County Commissioners at a Regular meeting;
 - No funds shall be distributed by the County for the purchase of the easement until the County has received adequate grant funds from the State; and,
- Any funds received from the sale of the property or otherwise under the easement shall accrue to the general fund of Hyde County to offset ongoing monitoring and enforcement costs.

Commissioner Byrd moved to table discussion until the September 21 Board meeting to allow time for Attorney Sid Hassell to review the grant information. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell. Nays – Davis; Absent or Not Voting – None.

CAMA Land Use Plan Amendment – Wetlands Mitigation

Commissioner Swindell moved to excuse Commissioner Davis due to conflict of interest. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell. Nays – None; Absent or Not Voting – Davis.

Mr. Ed Temple of Conservation Lands, LLC, Fairfield, has been working on a proposal (Kitty Creek Coastal Wetlands Bank) for providing a mitigation site for the Bonner Bridge (NC12) Project over Oregon Inlet. The Hyde County CAMA Land Use Plan (LUP), certified by the Coastal Resources Commission in 2008, opposes conversion of Hyde County land to

wetlands for mitigation of projects outside Hyde County. In the past, such conversion has hurt Hyde County's economy and put upward pressure to increase taxes on remaining taxable property. Mr. Classen spoke with CAMA staff about an amendment to the Hyde County LUP that would allow the Board of Commissioners to review wetlands mitigation proposals and make a judgment whether the proposal would provide a direct, quantifiable benefit to Hyde County.

After discussion, Commissioner Byrd moved to reaffirm the existing policy and not submit an amendment to the CAMA Land Use Plan. Upon a request for clarification, Commissioner Byrd further moved to direct the County Manager to send a letter to reiterate the County's position on the Kitty Creek proposal. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Spencer, and Swindell. Nays – None; Absent or Not Voting – Davis.

At this time, Commissioner Davis returned to the meeting.

Engelhard Water Treatment Plant - Contract Awards

On August 27, bids were opened for the two contracts comprising the Engelhard Water Treatment Plant. The first contract is construction of the Reverse Osmosis Water Treatment Plant and the second contract is for the Discharge Line. Following the bid opening, Rivers & Associates developed a tabulation of the bids as required by law and developed a recommendation which bid(s) the County should select.

Certified Bid Tab – recommended lowest responsible bidder is:

Reverse Osmosis Water Treatment Plant	
George Raper & Son, Inc.	\$2,608,912
Utility Piping (Discharge Pipe)	
Herring-Rivenbark, Inc.	\$ 445,830

After receiving update from Utilities Director Clint Berry, Commissioner Swindell moved to approve recommendation from the engineers and authorize the Chairman, County Manager Clerk, Finance Officer, County Attorney and other County officials to sign and execute all documents, plus take other actions necessary in support of this action; and authorize the Chairman, County Manager, Clerk, Finance Officer, and other County officials to work with the Bond Counsel, Mary Nash Rusher of Hunton & Williams, to submit application materials to the Local Government Commission for the interim funding, revenue bonds, and other financing and to take such actions as are necessary in support of seeking approval for such application. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell. Nays – None; Absent or Not Voting – None.

County Commissioners Reports:

Commissioner Ballance reported that the Noise Ordinance is not effective on Ocracoke.

Commissioner Swindell will participate in "Relay for Life" on September 18 and 19 at Engelhard Recreation Park. Mr. Swindell reported that Health Board quarterly meetings will include training beginning in October.

Commissioner Spencer has received calls from citizens concerning clarification of trash disposal. Ms. Spencer asked that a letter of clarification from the County be sent with next month's solid waste bills.

No other Board or Committee reports were offered so Mr. Davis continued with the Agenda.

County Manager's Report:

Swan Quarter Dike Project

Kris Noble, Grants Technician, will gave an update on Phase 12 and Phase 13 (final phase) of the Swan Quarter Dike Project.

Ms. Noble reported Phase 12 is on schedule and within budget. Completion is expected in fall 2009. The County received a Corps of Engineers Notice of Violation as six driveways were include in the final plans prepared by NRCS but only two were shown on the preliminary plans, which were used earlier this decade in securing a permit from the Corps. The extra driveways have been removed and the project is again in compliance with the original permit. Jerry Harris, Applied Technologies, and contract Project Manager, is to be commended for calling in the CAMA and Corps reps to check the Project, immediately addressing the problem when the noncompliance was found, and getting changes made as quickly as possible to bring the Project into compliance.

Ms. Noble reported Phase 13, which was a stimulus project, has been delayed for several months due to permitting issues and will be funded by NRCS with funds available after October 1. NRCS staff feel strongly that Phase 13 will proceed and the County Attorney continues working on land rights while NRCS staff develops applications for permit modifications to be provided to move forward immediately when the funding is available and Project Agreements are approved. Completion is now expected in the late summer 2010 (rather than spring/summer 2010).

Rural Water and Wastewater Projects: Responsible and Effective Oversight of Consulting Engineers

Kris Noble, 2009 Hyde County Grants Technician, reported that on August 18 she attended the North Carolina Rural Communities Assistance Project, Inc.'s 2009 Summer Workshop entitled "Rural Water and Wastewater Projects: Responsible and Effective Oversight of Consulting Engineers" located at the Vernon James Research & Extension Center in Plymouth, NC. The workshop was sponsored by the North Carolina Rural Center and Rural Center staff was among presenters, as well as representatives from local governments, USDA, engineering firms and the Local Government Commission. Topics covered included but were not limited to selecting engineers, issuing Requests for Proposals (RFP) and Requests for Qualifications (RFQ), preliminary engineer reports, contract negotiations, and financial management in stressful economic times.

Other Items Discussed

County Manager Carl Classen gave a report on two Local Acts passed by the General Assembly: Bow Hunting and Mineral Rights. Mr. Classen will send a letter explaining the County's position on Bow Hunting.

Commissioner Byrd moved to continue to run classified advertisement on Mineral Rights Notice prior to its approval on October 1. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell. Nays – None; Absent or Not Voting – None.

After discussion , Mr. Swindell moved to conduct Public Hearing on September 21 on Hydeland Canal No Wake Zone Enlargement. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell. Nays – None; Absent or Not Voting – None.

Solid Waste Services

Utilities Director Clint Berry and Solid Waste Services Superintendent James Blount gave an overview of various solid waste matters including:

- Overview of Existing Solid Waste Operations and Accounts
- Plan for In-house Solid Waste Collection Services
- Status of Hiring Code Enforcement Officer – This position will enforce the County Code as it relates to solid waste issues, plus will give presentations and perform other public information duties and will write grants.
- Landfill Bans – Plastic Bottles

Utilities Director Clint Berry reported application deadline for Solid Waste Code Enforcement Officer has been extended to Friday, September 11.

In-house Solid Waste Collection Services will be re-visited on September 21.

Emergency Services

Interim Emergency Services Director Jeanette Jones gave an update on various emergency service functions including:

- Emergency Medical Service
 - Report on County-requested audit by State OEMS
 - Transition to Countywide Paramedic Service
 - Staffing
- Code Enforcement
 - Restructuring following County-requested review by Office of State Fire Marshall
 - Staffing to Meet State Required Inspections and Procedures
- Emergency Management
 - Storms - Bill, Danny, Erika

Ms. Jones reported that Hyde County EMS continues investigating ways to keep cost down while providing adequate coverage. Ms. Jones encourage EMT-Paramedic training for Hyde County EMS employees.

Closed Session:

Commissioner Byrd moved to enter Closed Session in accordance with NCGS §143A-318.11(a)(6) to discuss personnel matters. Mr. Swindell seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

The Commissioners entered closed session at 10:15 P.M.

Commissioner Byrd moved to return from Closed Session. Ms. Spencer seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.


The Commissioners re-entered regular session at 10:45 P.M.

There being no further matters to come before the Commissioners, Mr. Swindell moved to adjourn the meeting. Mr. Byrd seconded the motion. The motion passed on the following vote: Ayes – Ballance, Byrd, Davis, Spencer, and Swindell; Nays – None; Absent or Not Voting – None.

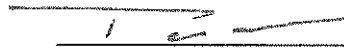
The meeting adjourned at 10:50 PM.

Minutes approved on the _____ day of _____, 2009.

Respectfully submitted:



Lois Stotesberry, Clerk - Hyde County Board of Commissioners



Tom Davis, Chairman - Hyde County Board of Commissioners

Attachments:

Exhibit A – “Engelhard Water Treatment Plant Project Ordinance #129 – Amendment #2”

*Exhibit B – “Project Ordinance – Swan Quarter NC STEP Grant #2008-219-60401 –
Amendment #1”*

Exhibit C – “An Ordinance Amending the Hyde County Code Relating to Pyrotechnics”

COUNTY OF HYDE
ENGELHARD WATER TREATMENT PLANT
PROJECT ORDINANCE #129 - Amendment #2

Be it hereby ordained by the Board of Commissioners of Hyde County, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following project ordinance amendment is adopted.

- Section 1: The project authorized is the Engelhard Water Treatment Plant.
- Section 2: The Hyde County staff is hereby directed to proceed with the grant project and the within the terms of the grant documents and the budget contained herein.
- Section 3: The following projected revenues and resources are anticipated to be available to complete the project activities:

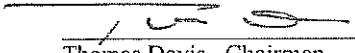
	Original	(+/-)	Total
Rural Economic Development Center Grant #22-66-13	\$ 400,000		\$ 400,000
Rural Economic Development Center Grant #22-70-40	\$ 400,000		\$ 400,000
Hyde County Revolving Loan Fund Grant	\$ 400,000		\$ 400,000
Capital Improvements-Hyde County Water Fund	\$ 1,000		\$ 1,000
USDA Grant (Approved 12/21/05 form#RD1940-1)	\$ 2,000,000		\$ 2,000,000
USDA Grant (Approved 12/21/05 form#RD1940-1)	\$ 1,420,000		\$ 1,420,000
	<u>\$ 4,621,000</u>	<u>\$ -</u>	<u>\$ 4,621,000</u>

- Section 4: The following amounts are appropriated for the project activities:

	Original	(+/-)	Total
Land & Easements	\$ 37,800	\$ -	\$ 37,800
Engineering & Administration & Legal	\$ 489,700	\$ 161,428	\$ 651,128
Additional Engineering Services -RLF	\$ 205,400	\$ -	\$ 205,400
Construction	\$ 3,191,000	\$ 46,911	\$ 3,237,911
Capitalized Interest During Construction	\$ 400,000	\$ (200,000)	\$ 200,000
Contingencies	\$ 159,600	\$ 113,596	\$ 273,196
Environmental	\$ 94,500	\$ (94,500)	\$ -
Soil Borings/Geotechnical/Hydrageologists	\$ 43,000	\$ (27,435)	\$ 15,565
	<u>\$ 4,621,000</u>	<u>\$ -</u>	<u>\$ 4,621,000</u>

- Section 5: The Finance Officer is hereby authorized to set up and maintain a Special Revenue Fund for this project.
- Section 6: The Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total revenues received or claimed.
- Section 7: The Finance Officer is directed to include a detailed analysis of past and future costs and revenues on this project in every budget submission made to this board.
- Section 8: Copies of this project ordinance shall be made available to the Finance Officer for direction in carrying out this project.

Adopted this 8th day of September, 2009.


Thomas Davis., Chairman
Hyde County Board of Commissioners

ATTEST:

Lois Stotesberry, Clerk to the Board

(Seal)

**An Ordinance Amending the
Hyde County Code Relating to Pyrotechnics**

BE IT ORDAINED BY THE HYDE COUNTY BOARD OF COMMISSIONERS AS FOLLOWS:

Article I: Purpose

The purpose of this Ordinance is to amend the Code of Ordinances, Hyde County, North Carolina, also known as the Hyde County Code, which was originally adopted by the Board of Commissioners on June 6, 2009 and subsequently amended.

Article II. Construction

For purposes of this Ordinance, underlined words (underline) shall be considered as additions to existing Town Code language and strikethrough words (~~strikethrough~~) shall be considered deletions to existing language. Language of the adopted County Code shall be shown in italics (*italics*).

Article III Amending Article II of Chapter 18, Hyde County Code, Relating to Fire Prevention and Protection

Article II of Chapter 18 of the Hyde County Code of Ordinances, Hyde County, North Carolina, is hereby amended to read as follows:

ARTICLE II. ~~O~~CRACOKE TOWNSHIP FIRE PREVENTION AND PROTECTION

Sec. 18-21. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Application agent means that person designated by this article to act as an application agent for permitting purposes under this article.

Board means the county board of commissioners.

Hyde County level III fire inspector shall mean any inspector employed by Hyde County or under contract with Hyde County to perform Level III fire inspections in accordance with the North Carolina Code Officials Qualification Board.

Ordinance enforcement official means:

~~(1) The county fire marshal;~~

~~(2) The deputy fire marshal;~~

- (1) Any fire inspector duly authorized to perform fire inspection services by or for Hyde County and having a valid certification issued by the State of North Carolina; and
(2) Any officer appointed by the county board of commissioners as an ordinance enforcement official, including any deputy sheriff or law enforcement officer having a valid certification issued by the State of North Carolina.

Outdoor burning.

- (1) The term "outdoor burning" means the intentional setting of any outdoor fire designed for, or resulting in, the reduction of vegetation, wood products, waste, or any other materials.
(2) The term "outdoor burning" does not include:
a. The use of tobacco products;
b. The use of outdoor cooking equipment, such as grills, smokers or similar devices; and
c. Campfires in pits or campfire rings; provided that the area around such fires shall be cleared of flammable materials for a distance of not less than six feet in every direction.

Pyrotechnics.

- ~~(1) The term "pyrotechnics" means and includes any and all kinds of fireworks and explosives which are used for exhibitions or amusement purposes; provided, however, that nothing herein contained shall prevent the manufacture, purchase, sale, transportation and use of explosives or signaling flares used in the course of ordinary business or industry, or shells or cartridges used as ammunition in firearms. This article shall not apply to the sale, use or possession of explosive caps designed to be fired in toy pistols; provided that the explosive mixture of the explosive caps shall not exceed 0.25 of a gram for each cap.~~
~~(2) This article shall apply to all other exempted pyrotechnics as outlined shall have the same meaning as defined in G.S. 14-414 as it may be amended from time to time. (2) (6) and to any other pyrotechnic or explosive not specifically exempted herein.~~

Pyrotechnics expert means any person who has a certificate of completion of a comprehensive pyrotechnics class or seminar from an entity which covers the National Fire Protection Association-Aerial Fireworks regulations as outlined in NFPA 11-23-1123 and the execution of pyrotechnics in said seminar or class or who possesses a federal or state license for the possession and discharge of explosives, if required.

Responsible party means any individual, firm, partnership, corporation, limited liability company or any other legal entity who violates this article.

Sec. 18-22. Enforcement; penalty.

- (a) *Criminal.* Any responsible party violating this article shall be guilty of a misdemeanor punishable by a fine not to exceed \$500.00. This offense requires a mandatory court appearance. Each day's violation shall be treated as a separate offense. Any duly authorized law enforcement officer or county code enforcement official may cause a criminal citation or criminal summons to be issued to the responsible party.

(b) Civil. ~~Additionally~~ Alternatively, any responsible party who is found in violation of this article shall be subject to a civil penalty of \$100.00 as provided in G.S. 153A-123. Each day's violation shall be treated as a separate offense.

(c) Remedies. This article may be enforced by equitable remedies and any unlawful condition existing or in violation of this article may be enjoined by an injunction and order of abatement in accordance with G.S. 153A-123.

~~Sec. 18-23. Purpose; authority.~~

~~The purpose of this article is to control potential fire hazards in Ocracoke Township, Hyde County, North Carolina. This article is adopted pursuant to the authority contained in G.S. 153A-121 and G.S. 153A-128. Due to the remoteness and physical isolation of Ocracoke Island and the density of residential housing and commercial development, the high percentage of exterior wood or wood based siding, decks, porches and patios, the denseness and nearness of underbrush and other vegetation, to the constancy of wind, the aridness of the climate and the limited firefighting capabilities, the county board of commissioners believe a total ban on outdoor burning and the use of pyrotechnics, subject only to the exceptions allowed herein, is necessary to protect the health, safety, welfare and property of the citizens and visitors of Ocracoke Township, but not necessary as to the protection of the county's other townships. Large fires are identified as one of the likely potential disasters on Ocracoke Island in the county emergency operations plan.~~

~~Sec. 18-24. Territorial jurisdiction.~~

~~This article shall apply to Ocracoke Township of Hyde County, North Carolina; provided that it shall not apply to the lands owned by the United States of America or the state which are located in Ocracoke Township.~~

~~Sec. 18-25. Prohibited activities.~~

(a) ~~It shall be unlawful for any person to engage in outdoor burning within Ocracoke Township.~~

(b) ~~It shall be unlawful for any person to engage in any of the following activities with regard to pyrotechnics without first obtaining approval from the Hyde County Board of Commissioners and a permit from a Hyde County fire inspector who holds a valid Class III fire inspection credential issued by the State of North Carolina:~~

~~(1) Possess;~~

~~(2) Transport;~~

~~(3) Receive;~~

~~(4) Use;~~

~~(5) Manufacture;~~

~~(6) Purchase;~~

~~(7) Sell; or~~

~~(8) Discharge or cause to be discharged; except as exempted and permitted herein.~~

~~(b) It shall be unlawful for any individual, firm, partnership or corporation to manufacture, purchase, sell, deal in, transport, possess, receive, advertise, use or cause to be discharged any~~

pyrotechnics of any description whatsoever within Hyde County: provided, however, that it shall be permissible for pyrotechnics to be exhibited, used or discharged at concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations; provided, further, that the use of said pyrotechnics in connection with concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations, shall be under supervision of experts and said use shall be done in accordance with a fireworks permit issued under Section 18-26 of this Ordinance.

Sec. 18-26. Fireworks permits.

(a) Prior to issuance of a fireworks permit under this section, the Hyde County board of county commissioners must have approved a written application from an individual, firm, partnership or corporation or other entity for the use of pyrotechnics in conjunction with the conduct of concerts or public exhibitions, such as fairs, carnivals, shows of all descriptions and public celebrations. In their approval, the county commissioners may impose conditions on the exhibition, use and discharge of the pyrotechnics.

(1) Such approval may occur only after only after satisfactory evidence is produced to the effect that said pyrotechnics will be used only for the aforementioned purposes and none other.

(2) For any indoor use of pyrotechnics at a concert or public exhibition, the Hyde County board of commissioners will not issue any permit unless a Hyde County fire inspector who holds a valid Class III fire inspection credential issued by the State of North Carolina has certified in writing to the board of commissioners that:

(1) Adequate fire suppression will be used at the site.

(2) The structure is safe for the use of such pyrotechnics with the type of fire suppression to be used.

(3) Adequate egress from the building is available based on the size of the expected crowd.

(c) Permits for the use of pyrotechnics in connection with the conduct of public exhibitions, festival or celebrations may be approved and issued by a Hyde County fire inspector who holds a valid Class III fire inspection credential issued by the State of North Carolina; provided:

(1) The applicant submits a complete application;

(2) The applicant meets the other requirements herein set forth;

(3) The pyrotechnics used will be exhibited, used, handled, manufactured, and discharged by operators and personnel holding valid permits and having successfully completed training as required by State law; supervised by an expert persons meeting qualifications; and

(4) Proof of insurance for injuries to persons and property shall be submitted in accordance with State law. There will be insurance listing in force to cover injury to persons or property as a result of the pyrotechnic use.

(d) Applications must be made to the county fire marshal and any deputy fire marshal who shall be the designated application agents. Any person or entity seeking a fireworks permit must get obtain an official application from the County an application agent and must complete and submit an original application and all the required attachments at least ~~45~~ forty-five (45) days prior to the applicable event.

(1) Upon satisfactory review and approval of the application, a Hyde County fire inspector who holds a valid Class III fire inspection credential issued by the State of North

~~Carolina, the county fire marshal's office shall determine whether the fireworks permit sought is consistent with the action of the Board of Commissioners in their approval and, if so, shall issue a fireworks permit in accordance the state fire prevention code when issuance of the same is found to not be detrimental to the public interest.~~

(e) Upon approval of an application by the County Commissioners, a Hyde County fire inspector who holds a valid Class III fire inspection credential issued by the State of North Carolina may issue a fireworks permit consistent with conditions imposed by the County Commissioners and consistent with State law, code and regulation as such may be amended from time to time.

~~(e) In addition to the fire prevention requirements of the state fire prevention code, the fire marshal's office, in consultation with the Ocracoke fire chief, may require the applicant to provide additional fire suppression capability through an agreement with the Ocracoke fire department.~~

(f) Every application shall be accompanied by an application fee of \$100.00 (one hundred dollars), which may be changed from time to time by resolution made and adopted by of the board.

Article IV. Severability

If any words, phrases, language, section or other portion of this Ordinance is held invalid by a court of competent jurisdiction, then all remaining words, phrases, language, section or other portion of this Ordinance shall remain in full force and effect.

Article V: Effective Date

This Ordinance is effective September 9, 2009.

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Next Page is Signature Page

Adopted this the 8th day of September 2009.

Hyde County Board of Commissioners:

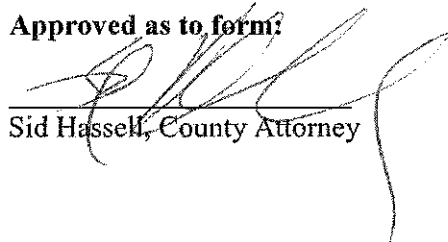

Tom Davis, Chairman

ATTEST:


Lois Stotesberry, Clerk to the Board

COUNTY
S E A L

Approved as to form:


Sid Hassell, County Attorney

Date Introduced by County Commissioners:	August 3, 2009
Second Reading by County Commissioners:	September 8, 2009
Date(s) Advertised:	Not Applicable
Name of Newspaper:	Not Applicable
Date of Public Hearing:	Not Applicable

COUNTY OF HYDE
NORTH CAROLINA SMALL TOWN ECONOMIC PROSPERITY GRANT
PROJECT ORDINANCE # _____

Be it ordained by the Board of Commissioners of Hyde County, North Carolina, that pursuant to Section 13.2 of Chapter 159 of the General Statutes of North Carolina, the following grant project ordinance is hereby adopted:

Section 1. The project authorized is the North Carolina Small Town Economic Prosperity Grant from the North Carolina Rural Center for the Village of Swan Quarter.

Section 2. Hyde County staff is hereby directed to proceed with the grant project within the terms of the grant document(s), the rules and regulations of the North Carolina Rural Center, Inc., and the budget contained herein.

Section 3. The following revenues and resources are anticipated to be available to complete the project activities:

NC Rural Center	\$200,000
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Section 4. The following amounts are appropriated for the project activities:

Marketing Plan	\$20,000
Nature Trail	\$40,000
RV Park/Campground	\$65,000
Streetscape	\$25,000
Historic Courthouse	<u>\$50,000</u>
	\$200,000

Section 5. The Grant Finance Officer is hereby authorized to set up and maintain a special Revenue Fund for this project.


Section 6. The Grant Finance Officer is hereby directed to report quarterly on the financial status of each project element in Section 4 and on the total revenues received or claimed.

Section 7. The Finance Officer is directed to include a detailed analysis of past and future costs and revenues on this project in every budget submission made to this board.

Section 8. Grant Finance Officer is directed to report quarterly on the financial status of each project element in Section 4 and on the total grant revenues received or claimed.

Section 10. Copies of this grant project ordinance shall be made available to the Grant Finance Officer for direction in carrying out this project.

Adopted this *8th* day of *September, 2009.*



Tom Davis, Chair
Hyde County Board of Commissioners

ATTEST



Clerk to the Board

SEAL